

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

4013-00100

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on December 27, 2005Signature Jean BrownTyped or printed name Jean Brown

Application Number

09/747,909

Filed

December 22, 2000

First Named Inventor

Lucy Broyles

Art Unit

3722

Examiner

Gates, Eric Andrew

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☐ attorney or agent of record.
Registration number _____☒ attorney or agent acting under 37 CFR 1.34.Registration number if acting under 37 CFR 1.34 31,745
Signature

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972-731-2288

Telephone number

December 27, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lucy Broyles

Serial No.: 09/747,909

Filed: December 22, 2000

For: PERSONALIZED REPETITIVE
LANGUAGE KIT AND PROCESS§
§ Group Art Unit: 3722
§
§ Examiner: Gates, Eric Andrew
§
§ Confirmation No.: 4442
§Commissioner for Patents
MAIL STOP AF
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Alexandria, VA 22313-1450**CERTIFICATE OF MAILING**I hereby certify that this correspondence
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22313-1450

December 27 2005

(Date of Deposit)

Jean Brown

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

It is well established that a claim is presumed allowable until the Examiner has established a prima facie case of obviousness. Only then must the Applicant set forth reasons patentably distinguishing the claimed invention from the prior art. In the present application, it is submitted that the Examiner has failed to establish a prima facie case of obviousness of Claims 17-20, 23-26, 28-36 and 38-41. The Applicant has, therefore, submitted this *Request For A Pre-Appeal Brief Review* of this application.

Applicant's invention is directed to a method by which a reader facilitates the process of teaching a pre-reader to read. As a first part of the process, the reader "obtains a repetitive language kit having a theme related to a planned shared experience between the reader and the pre-reader." Claim 17, lines 3-4. While the term "planned shared experience" can be any future activity that the reader and pre-reader shall participate in together, the specification provides several examples of planned shared experiences at page 11, line 3, including (a) a visit to a zoo

or (b) a tour through a school. The repetitive language kit obtained by the reader during this part of the process includes a number of items relating to the theme of the planned shared experience, including “pages having repetitive text related to the theme of the planned shared experience.”

Claim 17, line 6.

As a second part of the process, the reader shares an experience with the pre-reader. *See*, for example, Claim 17, line 15. As specifically recited in the claims, the experience that the reader shares with the pre-reader must be “related to the theme of the repetitive language kit and the repetitive text on the pages having repetitive text.” Claim 17, line 18-19. For example, if the planned shared experience was a visit to the zoo, the reader and pre-reader would visit the zoo together. After sharing the experience, the shared experience would then be memorialized through one or more pictorial representations. *See*, Claim 17, lines 17-18. For example, if the reader and pre-reader had shared the experience of visiting the zoo, the reader and the pre-reader could memorialize the shared experience by taking a series of photographs of animals seen during the visit to the zoo.

As a third part of the process, one or more pictorial representations of the shared experience are affixed to corresponding ones of photographic sites of pages having repetitive text related to the theme of the shared experience. *See*, Claim 17, lines 21-23. For example, if the reader and pre-reader had taken a picture of a lion during their visit to the zoo, the picture could be affixed to photographic site bearing appropriate repetitive text in proximity to the photographic site. By way of further example, the text could read:

SEE THE LION.
SEE THE SCARY LION.
SEE THE SCARY LION ROAR.
THE LION’S ROAR IS SCARY.

Finally, as a fourth part of the process, one or more of the pictorial representations would be personalized by adding text to the caption sites where the pictorial representations were affixed. *See*, Claim 17, lines 24-26. For example, the personalized text added proximate to the photograph taken during the visit to the zoo could read:

THIS IS SIMBA, THE WHITE LION.

Applicant's invention provides significant benefits in facilitating the process of teaching a pre-reader how to read. More specifically, "it has been found that memorializing the personal experiences of a pre-reader and coupling that memory with easy repetitive language suitable for a pre-reader teaches printed word concepts to the pre-reader and re-enforces reading skills, especially when the text has a personally enjoyable meaning" Specification, page 3, lines 2-5.

From the foregoing, it is clear that Applicant's claims are directed to a process involving a number of steps that are unrelated to the storybook itself. It is particularly clear that the second part of the claim, in which "the reader shares an experience with the pre-reader," bears absolutely no relationship to either the repetitive language kit or the personalized repetitive language book constructed from the kit. Similarly, the third part of the claim, in which the shared experience is memorialized, bears absolutely no relationship to either the repetitive language kit or the personalized repetitive language book constructed from the kit.

The Examiner's attempts to identify the foregoing limitations in the cited art are deficient. Claim 17 specifically recites that the reader and pre-reader share an experience, for example, the reader and pre-reader visiting a zoo together to observe the various animals residing thereat. In contrast with the foregoing shared experience, at page 2, lines 22-23 of the Final Rejection dated November 3, 2005, the Examiner asserts that Seaton teaches a shared experience, more specifically, the parent reading the text of a storybook while the child listens to

the story read by the parent. Not only is the foregoing not a shared experience (the reader is performing the task of reading while the pre-reader is performing the task of listening), it ignores the simple fact the Applicant's claims specifically require that the shared experience must be related to the theme of the repetitive language kit. Similarly, Claim 17 further recites that the shared experience be memorialized, for example, by taking pictures of animals at the zoo that were seen by the reader and the pre-reader during their visit to the zoo. In contrast with the foregoing memorializing of the shared experience set forth in Claim 17, the Examiner merely states at page 3, lines 1-2 of the Final Rejection dated November 3, 2005 that Seaton discloses "memorializing the shared story between the reader and the pre-reader through pictorial representations (as seen in figure 3)." However, figure 3 of Seaton merely shows a book having an illustration of a house. Nowhere does Seaton teach or suggest that the house is in any way related to a shared experience of a reader and a pre-reader.

In view of the foregoing, the Applicant respectfully submits that the Examiner's statement at page 3, lines 3-5 of the Final Rejection dated November 3, 2005, specifically, that "Seaton discloses the claimed invention except for personalizing the repetitive language kit by fixing pictorial representations to corresponding photographic sites and adding text to the caption sites in an organized preferred order" is clearly deficient. Thus, as Seaton neither teaches nor suggests at least two of the elements of Applicant's claimed invention, it is submitted that the Examiner has failed to establish a prima facie case of obviousness of Claims 17-20, 23-26, 28-36 and 38-41.

Finally, the Examiner appears to assert at page 3, line 17 through page 4, line 4 of the Final Rejection dated November 3, 2005 that the aforementioned limitations relating to the planned shared experience merely set forth the intended use of the kit and, as a result, bear no

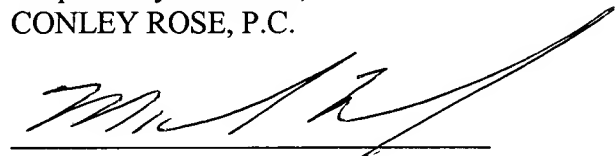
relevance to a determination as to the patentability of the claimed invention. The Applicant respectfully disagrees. More specifically, the Examiner asserts that "[i]n a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. Final Rejection dated November 3, 2005, page 3, line 22 through page 4 line 1. While neither agreeing nor disagreeing with the Examiner's statement, the Applicant respectfully notes that the pending claims are drawn to a process by which a reader facilitates the reading skills of a pre-reader and not to a method of manufacturing a storybook. Accordingly, contrary to the Examiner's assertion at page 7, lines 7-10, Applicant's invention is not related to the content of the printed matter of a storybook. Rather, Applicant's invention, as defined by Claims 17-20, 23-26, 28-36 and 38-41, is directed to a process of teaching a pre-reader to read which includes multiple steps unrelated to the storybook itself.

For all of the above reasons, the Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness of Claims 17-20, 23-26, 28-36 and 38-41. Accordingly, the Applicant respectfully requests that the Examiner's rejection of Claims 17-20, 23-26, 28-36 and 38-41 be vacated and that, in the absence of a prima facie case of obviousness, the application be allowed to proceed to issue without further delay.

Date: December 27, 2005

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Respectfully submitted,
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